REMARKS

By the present amendment, claims 1 and 5 are amended, claims 2 and 6 are cancelled, claims 7-13, 15-23 and 26-29 are withdrawn, and new claims 30-34 are added. Claims 1, 3-5, 14, 24, 25 and 30-34 are currently pending in the application. Support for the new claims can be found throughout the application as filed, *inter alia*, at [0033], [0081], [0095] and [0107] of US 2007/0025911 A1. No new matter has been added by the amendments.

It is noted that the examiner grouped claim 23 "drawn to a pharmaceutical composition comprising the monoclonal antibody of claim 1" with the method claims (please see page 3 of the Restriction/Election mailed 05/14/2008). The applicants request for a clarification of the status of claim 23, as it is drawn to the same subject matter as of claim 1 and is dependent from claim 1.

Claims 2 and 6 are were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification.

The examiner indicated that the specification lacks complete information for the deposit of hybridoma cell line 7C8.

Claims 2 and 6 have been cancelled, and claim 1 is amended to recite hybridoma 7C8. The hybridoma cell line designated "7C8" has been deposited with the American Type Culture Collection (ATCC), 10801 University Blvd., Manassas, VA 20110-2209 on March 28, 2006, under Patent Deposit Designation PTA-7448. All restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon granting of the patent. Please see the ATCC deposit receipt attached at the end of this response.

Accordingly, applicants request reconsideration and withdrawal of this rejection.

Claims 1-6, 14 and 24-25 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Specifically, the examiner indicated that the specification provides written description only for the monoclonal antibody produced by the hybridoma cell line 7C8, and not any antibody as encompassed within the claims.

Claims 1 and 5 have been amended in a manner which obviates this rejection. Applicants request reconsideration and withdrawal of this rejection.

Claims 1-6, 14 and 24-25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The terminology "binding fragment" has been amended to "antigen-binding fragment".

b. The claims have been amended to delete the phrase objected to by the examiner.

Thus, the applicants believe that the above amendments overcome the indefiniteness rejections raised by the examiner, and request reconsideration and withdrawal of this rejection.

Claims 1, 3, 5, 14 and 24-25 were rejected under 35 U.S.C. 102(b) as being anticipated by Bosslet et al US RE37596

Applicants respectfully request reconsideration and withdrawal of this rejection in view of the amendments to the claims and the following remarks.

Claim 1 is drawn to a monoclonal antibody produced by the hybridoma cell line designated as 7C8 or an antigen-binding fragment thereof. Claims 3, 14, 24 and 25 depend directly or indirectly from claim 1. Claim 5 is drawn to a hybridoma cell line which produces a monoclonal antibody, wherein said hybridoma cell line is 7C8.

Bosslet et al does not teach the presently claimed antibody and hybridoma.

MPEP 2131 reads, in pertinent part:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Bosslet et al does not teach each and every limitation of the claims as presently written. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1, 3-5, 14 and 24-25 were rejected under 35 U.S.C. 102(b) as being anticipated by Gelber et al US 2002-0137109

The present claims and applicable law have been discussed above. Gelber et al does not teach each and every limitation of the claims as presently written. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1, 3, 5, 14 and 24-25 were rejected under 35 U.S.C. 102(b) as being anticipated by Ceriani et al., US 5,972,337

The present claims and applicable law have been discussed above. Ceriani et al does not teach each and every limitation of the claims as presently written. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1, 3-5, 14 and 24-25 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 and 7-8 of U.S. Patent No. 7,183,384.

Claims 1, 3, 5, 14, 24 and 25 have been discussed above. Claim 4 is drawn to an anti-idiotypic antibody which mirrors the binding site of the antibody according to claim 1.

MPEP §804 (B)(I) states "[a] nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is *either anticipated by, or would have been obvious over*, the reference claim(s)." Citations omitted, emphasis added.

Thus, in order to be a proper rejection, the claims in the present application must be anticipated by, or obvious over, the cited claims of United States patent no. 7,183,384. Applicants submit the presently pending claims are neither anticipated by nor obvious over the cited patent claims.

The examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference between the sets of claims is that the '384 patent has a narrower range for the MW of the antigen and specifies the cell line that produces the antibody if 7H11; and thus, the claims of the patent are narrower in scope as compared to the instant set of claims. Applicants respectfully disagrees.

Claims 1-5 and 7-8 of the '384 patent are drawn to a monoclonal antibody produced by the hybridoma cell line 7H11, which is a completely different molecule from the presently claimed invention. Accordingly, the claims as presently written are neither anticipated by, nor obvious over claims 1-5 and 7-8 of U.S. Patent No. 7,183,384, and Applicants respectfully request reconsideration and withdrawal of this provisional rejection.

CONCLUSION

In view of the above remarks, Applicants believe the pending application is in condition for allowance. Should the Examiner believe the prosecution of the application can be advanced by further discussion of the issues, he/she is invited to contact Applicant's representative at the telephone number provided below.

Applicants submits herewith fees for a one-month extension of time. The Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account No. 09-0528 under order number A256 1050 US.1.

Sincerely,

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